



September 22, 2009

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

FILED/ACCEPTED

SEP 24 2009

Federal Communications Commission  
Office of the Secretary

DOC 02-6

**APPEAL – YEAR 9 – Invoice Deadline Extension Denial**

**CC: 02-6**

Dear Sir or Madam:

Per our ***Administrator's Decision on Invoice Deadline Extension Request*** notification letter (copy on Page 5), dated August 24, 2009, please let this letter serve as our appeal of the SLD's decision to deny our request and appeal for an Invoice Deadline Extension for the FRN listed below.

Billed Entity Name: Laguna Department of Education

Billed Entity Number: **16033631**

Contact person name: **David McGee**

Technology Coordinator

LDOE District

I 40 West, Exit 114, Build 1125

Laguna, NM 87026

Contact email address: [d.mcgee@lagunaed.net](mailto:d.mcgee@lagunaed.net)

Form 471 Application Number: **530582**

Funding Request Numbers (FRNs): **1480889**

Service provider name: **Qwest Corporation**

Service Provider Identification Number (SPIN): **143005231**

USAC-assigned Invoice Number (if known): N/A

Amount of invoice: **\$7,200.00**

**REASON FOR DENIAL OF SLD APPEAL:**

Our request was denied and the following reason stated in the denial letter – “*Administrative procedures related to the payment of support for discounted services establish deadlines for applicants or service providers to submit invoices to USAC. The administrator provides an extension of the deadline under certain conditions. Those conditions are documented in the Reference Area on the USAC website. Your request did not provide clear information that satisfied those conditions.*”

**HISTORY:**

We explained in our request for the invoice deadline extension request that “Circumstances beyond the Service Provider's Control caused the deadline to be missed. The circumstances which were out of the service provider's control that did not allow for timely invoicing for this FRN are varied. Most importantly is the fact that Laguna has had 4 tech directors/coordinators handling E-Rate in the past few

years – each having no past experience with the program and not understanding all the steps that are required to successfully complete the application process. Also not any of them have remained in their position for enough time to get the experience of working with the program. Not one of them was on board to complete a funding year from start to finish. Most replacements were made during the middle of the E-Rate process so that in the case of this FRN, LDOE assumed the service provider would invoice the SLD, the service provider assumed that LDOE would file a Bear, and neither filed.

If you review our funding reports, an average of 48% of our funding has been utilized for all years of E-Rate since 2000. The lack of follow through clearly supports our explanation that past employees did not understand the E-Rate process and left most of their funding un-disbursed. The only funds disbursed were for those FRNs that a SPI was filed for - supporting our theory that our staff assumed the service provider would invoice the SLD. We emphasize that we missed a procedural deadline and did not violate a substantive rule.

### **SUPPORTING FCC RULINGS AND STATEMENTS:**

This same issue has been settled in prior FCC rulings, such as **DA 08-2385, Canon-McMillan School District**.

***Federal Communications Commission DA 08-2385, Canon-McMillan School District, Canonsburg, PA, et al.; Adopted: October 30, 2008***

#### **I. INTRODUCTION**

1. *“In this order, we grant 20 appeals of decisions by the Universal Service Administrative Company (USAC) concerning the schools and libraries universal service support mechanism (also known as the E-rate program) denying funding because the applicants’ invoice forms were untimely filed or not received by USAC. As explained below, we find that good cause exists to grant these appeals and remand the underlying applications associated with these appeals to USAC for further action consistent with this order”.*
3. *“Since Funding Year 2003, the relevant invoice forms must be postmarked no later than 120 days after the date of the FCC Form 486 NL or 120 days after the last day to receive service, whichever is later. An applicant may request an extension of the filing deadline.. ”*

#### **II. DISCUSSION**

2. *“<sup>4</sup> In this order, we grant 20 appeals of decisions by USAC denying funding because it found that the invoice forms, either the FCC Form 472 or the FCC Form 474, were untimely filed.<sup>1</sup> In remanding these applications to USAC, we make no finding as to the ultimate eligibility of the services or the petitioners’ applications.<sup>2</sup> We remind USAC of its obligation to independently determine whether the disbursement of universal service funds would be consistent with program requirements, Commission rules and orders, or applicable statutes and to decline to disburse funds where this standard is not met. To ensure that the underlying applications are resolved expeditiously, we direct USAC to complete its review of each request for reimbursement and to remit payment, if warranted, based on a complete review and analysis, no later than 90 calendar days from release of this order. For those applications*

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<sup>1</sup> Additionally, nothing in this order is intended: (1) to authorize or require payment of any claim that previously may have been released by a service provider or applicant, including in a civil settlement or plea agreement with the United States; or (2) to authorize or require payment to any person or entity that has been debarred from participation in the E-rate program.

<sup>2</sup> In performing a complete review and analysis of each underlying application, USAC shall either grant the underlying application before it, or, if denying the application, provide the applicant with any and all grounds for denial.

where the appropriate form was not submitted to USAC previously, we direct USAC to solicit submission of the invoice form no later than 15 calendar days from the release of this order and to remit payment associated with the solicited invoice form, if warranted, no later than 90 calendar days from the receipt of the invoice form.”

5. “Eighteen appeals involve the untimely filing of the FCC Form 472 and two appeals involve the untimely filing of the FCC Form 474.<sup>3</sup> Some petitioners assert that staff changes or inadvertent errors or typographical errors by the applicant’s staff resulted in incorrect information being submitted on the FCC Form 472 or failure to file the FCC Form 472 on a timely basis.<sup>4</sup> Several petitioners assert that they were confused about the funding year based on correspondence from USAC, which delayed or prevented the filing of the timely invoice forms.<sup>5</sup> Further, some applicants contend that they relied upon the service provider to add information to the form and submit the completed form to USAC and that the service provider failed to do so.<sup>6</sup> “

6. “Based on the facts and circumstances of these specific cases, we find that good cause exists to grant these appeals. Generally, these applicants claim that staff changes or inadvertent errors on the part of their staff resulted in the late filing or failure to file the FCC Form 472 or FCC Form 474. We believe that the petitioners have demonstrated that they made good faith efforts to comply with programmatic rules. We note that those tasked with working on E-rate applications are typically school administrators, technology coordinators, teachers and librarians who may have little experience with invoice requirements for the E-rate program. This may be particularly true of staff at small school districts or libraries.”

## **CONCLUSION:**

During this same period of time, we submitted **Invoice Deadline Extension Requests** for two Year 8, FRNs #1302418 and 130246, for which the extensions were approved and extended to 10/13/2009. A copy of the approval letter from the SLD is on Page 5. The Bears have been filed for these two FRNs. Under these circumstances, it difficult to understand how the SLD can approve extensions for

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<sup>3</sup> See Request for Waiver of Advanced Solutions, Inc., Canon-McMillan School District, Request for Waiver of Carrol County Public Library, Request for Review of Cimarron Municipal School District, Request for Waiver of Dalton Public Schools, Request for Waiver of Fostoria Community Schools, Request for Waiver of Hanover Community School Corporation, Request for Waiver of Jefferson County School Board, Request for Review of Jennings School District, Request for Waiver of Kalispell Public Schools, Request for Waiver of Leake and Watts Services, Inc., Request for Waiver of Maranacook Area Schools/School Union 42, Request for Waiver of New Castle Community School Corporation, Request for Waiver of Pitman Public School District, Request for Waiver of Radford City Public Schools, Request for Waiver of Tanana City School District, Request for Waiver of Tigerton School District, Request for Review of Walla Walla School District; Request for Review of Qwest Interprise America, Inc.

<sup>4</sup> See e.g., Request for Waiver of Advanced Solutions, Inc., Request for Waiver of Canon-McMillan, Request for Review of Cimarron Municipal School District, Request for Waiver of Dalton Public Schools, Request for Waiver of Fostoria Community Schools, Request for Waiver of Hanover Community School Corporation, Request for Waiver of Jefferson County School Board, Request for Review of Jennings School District of Jennings, Request for Waiver of Carrol County Public Library, Request for Waiver of Pitman Public School District, Request for Waiver of Radford City Schools, Request for Waiver of Coahoma Agriculture High School, Request for Waiver of Tanana City School District, and Request for Waiver of Tigerton School District.

<sup>5</sup> See e.g., Request for Waiver of Carrol County Public Library and Request for Waiver of Pitman Public School District.

<sup>6</sup> See e.g., Request for Waiver of Kaispell Public Schools, Request for Waiver of Leake and Watts, Inc., Request for Waiver of Maranacook/School Union 42, and Request for Waiver of New Castle Community School Corporation.

some FRNs from the previous year and not for the Year 9 FRN when the circumstances and the information we provided were the same.

We submit that USAC has erred in denying our request and appeal for an invoice deadline extension, due to prior FCC ruling cited above and the explanation and supporting data we have provided. We request that our appeal for Invoice Deadline Extension be approved for this FRN.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'David McGee', with a stylized flourish at the end.

David McGee,  
Technology Coordinator  
LDOE District

**2 Attachments:**

Administrator's Decision On Invoice Deadline Extension Request denial notification letter, dated August 24, 2009.

Administrator's Decision On Invoice Deadline Extension Request approved for Year 8 FRNs 1302418 and 130246



Universal Service Administrative Company

Schools & Libraries Division

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**Administrator's Decision on Invoice Deadline Extension Request**

August 24, 2009

David McGee  
LDOE District Office  
140 West End 114  
Building 1125  
PO Box 207  
Laguna, NM 87026

Re: Your appeal of the denial of your invoice deadline extension request

471 Application Number: 530582  
Funding Request Number(s): 1480889  
Correspondence Dated: July 31, 2009

After thorough review and investigation of all relevant facts, the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal.

Funding Request Number(s): 1480889  
Decision on Appeal: Denied in Full  
Explanation:

Administrative procedures related to the payment of support for discounted services establish deadlines for applicants or service providers to submit invoices to USAC. The administrator provides an extension of the deadline under certain conditions. Those conditions are documented in the Reference area on the USAC website. Your request did not provide information that satisfied those conditions.

Your appeal has not brought forth clear information establishing that those conditions were met but not considered. Therefore, your appeal is denied.

If you believe there is a basis for further examination of your application, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal

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100 South Jefferson Road, P.O. Box 902, Whippany, NJ 07981  
Visit us online at [www.usac.org](http://www.usac.org)



Universal Service Administrative Company

Schools & Libraries Division

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**Administrator's Decision on Invoice Deadline Extension Request**

June 15, 2009

David McGee  
Technology Coordinator  
LDOE District  
140 West, Exit 114, Build 1125  
Laguna, NM 87026

RE: Laguna Department of Education

RE: SLD Invoice #:	N/A	BEAR or SPI:	N/A
		Invoice Date:	N/A
SLD Linets) #:	N/A		
Vendor invoice #:	N/A		
471 Application Number:	472540		
Funding Request Number(s):	1302418, 1302486		
Your Correspondence Dated:	April 7 & April 14 <sup>th</sup> , 2009		

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your invoice deadline extension request for the invoice number indicated above. This letter explains the basis of SLD's decision. If your request included more than one invoice number, please note that for each invoice for which an invoice deadline extension request was submitted, a separate letter is being sent.

Invoice Number: N/A                      Line: N/A

Decision on Request: **Approved**

Since this Administrator's Decision approved your request, an invoice requesting payment must be submitted, so that it is postmarked no later than 120 days after the date

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100 South Jefferson Blvd, P.O. Box 902, Whippany, NJ 07981  
Visit us online at: <http://www.usac.org/sd>